IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 08.01.2021
CORAM:
THE HON'BLE MR. JUSTICE M.DURAISWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

T.C.A.No.607 of 2014

Commissioner of Income Tax,
Chennai. ... Appellant

Vs.

Ritha Sabapathy ... Respondent

Appeal preferred under Section 260A of the Income Tax Act, 1961, against the order of the Income Tax Appellate Tribunal, Madras, "B" Bench, dated 07.05.2009 in ITA.No.1525/Mds/2009, Assessment Year 2002-03 against I.T.A. No. 361/2006-2007 order dated 13.08.2008 on the file of the Commissioner of Income Tax (Appeals)V against GIR No./PAN Sa424(P)/ADEPR8253R order dated 18.11.2006 on the file of Income Tax Officer(OSD) Company Circle VI(1) Chennai 34.

For Appellant : Ms.V.Pushpa, Standing Counsel
for Mr.M.Swaminathan,
Senior Standing Counsel

For Respondent : Ms.Sriniranjani Srinivasan
for Mr.G.Baskar

JUDGMENT
(Judgment was delivered by M.DURAISWAMY, J.)

We have heard Ms.V.Pushpa, learned Standing Counsel for the appellant - Revenue and Ms.Sriniranjani Srinivasan for the respondent - Assessee.

2.The appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short, the Act) is directed against the order dated 07.05.2009 made in ITA.No.1525/Mds/2009 on the file of the Income Tax Appellate Tribunal, Chennai, ''B'' Bench (for brevity, the Tribunal) for the Assessment Year 2002-03.

3.The appeal was admitted on 15.09.2014 on the following substantial questions of law:

"1.Whether under the facts and the circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the disallowance of commission amount of Rs.20 lakhs paid by assessee

to her husband and not hit by the provisions of Section 40 A(2)(b)(1) o f the Income Tax Act?
2)Whether under the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the disallowance of commission amount of Rs.20 lakhs paid by assessee to her husband, though the expenditure has not been incurred wholly and exclusively for the purpose of business?

4.The learned Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the Low Tax Effect in terms of Circular No.17/2019 dated 08.08.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5.In the light of the said submissions, the above Tax Case Appeal is dismissed on account of the Low Tax Effect. The substantial questions of law framed are left open. In the event the tax effect in this case is above the threshold limit fixed in the said Circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To
1.The Income Tax Appellate Tribunal, Chennai, ''B'' Bench

2.The Commissioner of Income Tax (Appeals)V
121 Mahathma Gandhi Road, Chennai 34.

3.The Income Tax Officer(OSD)
Company Circle VI(1)
Chennai 34.

+1 CC to Mr.N. Muthukumar, Advocate sr 1156.
+1 CC to Mr.M.Swaminathan, Advocate sr 1428.

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RGN(CO)
SP(27/01/2021)